

AMENDMENTS TO THE DRAWINGS:

The attached sheet of drawing includes changes to Fig. 2. Specifically, Fig. 2 has been amended to include designation to reference characters 2 and 3.

Attachments: One (1) Replacement Sheet depicting Fig. 2.

REMARKS

Applicants submit this Reply to the Office Action mailed December 4, 2008. By this Reply, Applicants have canceled claims 1-8 and added new claims 9-28.

Applicants have also amended the specification and the drawings. Accordingly, claims 9-28, of which claims 9 and 28 are independent, are pending in this application. The originally-filed specification, drawings, and claims fully support the subject matter of new claims 9-28, amendments to the specification, and amendments to the drawings. Thus, this Reply introduces no new matter.

OBJECTIONS TO THE DRAWINGS

In the Office Action, the drawings were objected to for failing to comply with 37 CFR 1.84(p)(5) for not including certain reference characters mentioned in the description. Specifically, the Office Action noted that reference characters 2 and 3 were disclosed in the specification but did not appear in the drawings. Applicants have amended the drawings to include designations for reference characters 2 and 3 and respectfully request withdrawal of the objection.

The drawings were further objected to in the Office Action because they included a reference character, 17, not mentioned in the description. Applicants have amended the specification to refer to reference character 17. Accordingly, Applicants respectfully request withdrawal of the objection to the drawings.

OBJECTIONS TO THE CLAIMS

In the Office Action, claim 6 was objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should only refer to the claims in the alternative. Applicants have canceled claim 6 and submit that none of new claims 9-28

constitutes a multiple dependent claim. Accordingly, Applicants respectfully request withdrawal of the objection to the claims.

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

In the Office Action, claims 1-5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants have canceled claims 1-5 and submits that new claims 9-28 particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, Applicants respectfully request withdrawal of the Section 112, second paragraph, rejection.

REJECTION UNDER 35 U.S.C. § 102(b)

Also in the Office Action, claim 1 was rejected under 35 U.S.C. § 102(b) as being anticipated by WO 93/04780 to Dyk ("Dyk"). Applicants note that independent claim 1 has been canceled. However, subject matter from independent claim 1 has been incorporated into independent claims 9 and 28. Applicants respectfully traverse the rejection because Dyk does not disclose each and every step of the methods recited in new claims 9-28.

To anticipate a claim, the applied reference must disclose each and every element of the claim. M.P.E.P. § 2131. Applicant submits that Dyk fails to do so. For example, the method of independent claim 9 recites, among other steps, "passing the grains through initial cleaning; wetting the cleaned grains in a first wetting process; conditioning the wetted and cleaned grains; adjusting a moisture of the conditioned grains in a second wetting process; and shelling the grains." Likewise, the method of

claim 28 recites, among other steps, “passing the grains through initial cleaning and wetting; using a magnet to guide the grains to a wetting aggregate; setting a moisture level in the wetting aggregate; wetting the grains in the wetting aggregate ... [and] shelling the grains in the processing zone while exposing the grains to a stream of air.”

Dyk discloses that a “process for the production of flours ... comprises in succession the processing stages of wetting, steeping, dry-husking by means of an abrasive disc husker (9) or wet-husking by means of a wet husking machine, pre-crushing, ... and sorting.” Dyk, Abstract. That is, while claim 9 recites a first wetting process, a second wetting process, and a subsequent shelling step, and claim 28 recites two wetting steps as well as a subsequent shelling step, Dyk discloses only a single wetting process. Moreover, Dyk fails to disclose or suggest a subsequent shelling step after the wetting process. Accordingly, Dyk cannot anticipate claims 9 and 28. Withdrawal of the Section 102(b) rejection is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103(a)

Still further in the Office Action, claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyk in view of U.S. Patent No. 5,025,993 to Satake (“Satake”); and claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dyk in view of Satake, and further in view of U.S. Patent No. 4,314,825 to Paquette (“Paquette”). Applicants note that claims 2-5 have been canceled. However, new claims 10-28 include subject matter recited in canceled claims 2-5. Applicants respectfully traverse the rejection of claims 10-28 because no *prima facie* case of obviousness has been established.

To establish a *prima facie* case of obviousness, even though “the prior art reference (or references when combined) need not teach or suggest all the claim limitations,” the Examiner must still consider all of the words in a claim. M.P.E.P. § 2143.03. This rejection does not consider each of the elements of independent claim 9, from which claims 10-27 depend, and independent claim 28.

As noted above with respect to the Section 102(b) rejection, Dyk fails to disclose a first wetting process, a second wetting process, and a subsequent shelling step as recited in independent claim 9 or two separate wetting steps and a subsequent shelling step as recited in independent claim 28. Satake does not remedy this deficiency in Dyk. Indeed the Office Action does not rely on Satake for disclosing or suggesting the above features of independent claims 9 and 28. Rather, the Office Action alleges that “Satake teaches a method for making flour by grinding and the[n] polishing grain repeatedly.” Office Action at page 6. Even assuming this allegation is correct, which Applicants do not concede, it does not constitute a disclosure or suggestion of the above recited features. Accordingly, Dyke and Satake, either alone or in combination fail to present a *prima facie* case of obviousness. Withdrawal of the Section 103(a) rejection is respectfully requested.

Paquette does not cure the shortcomings of Dyk and Satake noted above. Indeed the Office Action does not rely on Paquette for disclosing or suggesting the above features of independent claims 9 and 28. Instead, the Office Action alleges that “Paquette teaches a process for preparing solid fuel from grain which includes passing grain residue through pelletizing mill where it is pressed into pellets.” Office Action at page 7. Even assuming this allegation is correct, which Applicants do not concede, it

does not constitute a disclosure or suggestion of the above recited features.

Accordingly, Dyk, Satake, Paquette and either alone or in combination fail to present a *prima facie* case of obviousness. Withdrawal of the Section 103(a) rejection is respectfully requested.

In view of the foregoing remarks, Applicants submit that the claimed invention is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request withdrawal of the rejections and timely allowance of all pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

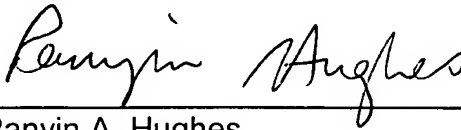
In discussing the specification, claims, and drawings in this Reply, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: March 4, 2009

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Attachments: One (1) Replacement Sheet depicting Fig. 2.